

REMARKS

After the foregoing Amendment, claims 1, 3, 6-7, 9-13 and 24-29 are currently pending in the application, as amended. Claims 14-23 have been cancelled and will be pursued in a divisional application. Claim 1 has been amended to more particularly point out that each picket passes through two apertures in the rail and is deformed between the apertures while within the rail. Claim 3 has been amended to delete the word "entry". Claim 6 has been amended to replace "the pickets" with "each picket". Support for this amendment can be found in at least paragraphs [0040]-[0041] and Figs. 5, 6a and 6b. Claims 12 and 13 have been amended to depend from claim 7. New claims 24-29 have been added. Support for new claims 24-29 and for the above amendments can be found in at least [0040]-[0041] and Figs. 5, 6a and 6b. Accordingly, no new matter has been added.

Claim Rejections – 35 U.S.C. § 102

The Examiner has rejected claims 1, 3, 6, 7 and 9-13 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,357,681 (Souza). Applicant respectfully traverses this rejection.

Referring to Figs. 1 and 14, Souza discloses a fence having two spaced apart hollow rails 16, 23 and plurality of pickets 31 extending therebetween. Each end of the picket 31 has a stem 33 having a reduced cross section than the remainder of the picket 31. The stems 33 are inserted through single holes 22, 29 (Figs. 9 and 15) of one side of each of the rails 16, 23 and are then flattened or upset in the vertical or axial direction, expanding the cross sectional size of the stem 33 to be larger than the hole to prevent the pickets 31 from detaching from the rails 16, 23. The rails 16, 23 are comprised of two sections 17, 20 and 24, 27 respectively that are assembled once the stems 33 have been hammered or flattened down.

Referring to Figs. 6a and 6b, the present application is directed to a panel for a fence having a pair of spaced apart rails 60, 63 and a plurality of pickets 62 extending therebetween and support by the rails 60, 63. Each picket 62 passes through two apertures in each of the rails 60, 63. The two apertures may be positioned on the top and bottom surfaces of the rail 63 such that each picket 62 extends entirely through the rail 63 or the two apertures in the rail may include one aperture in the top or bottom surface and one aperture extending through a support member

or internal wall 61. Alternatively, a portion of the picket can extend though only one aperture (Fig. 5). Once the pickets 62 is in place within the rail, the picket 62 is deformed with a crimping tool to deform or flatten the picket in the transverse direction such that the picket 62 cannot pass back through any of the apertures.

Claims 1, 3 and 6

Amended claim 1 of the present application is directed to a panel for a fence and recites:

at least one hollow rail and a plurality of pickets supported by the rail, wherein each picket passes through two apertures in the rail, and a portion of each picket located inside the rail between the apertures is deformed while within the rail to thereby prevent further passage of the pickets through the apertures

[underline emphasis added]

Applicant respectfully submits that Souza does not teach, suggest or disclose each and every element of amended claim 1. Specifically, Souza does not disclose “wherein each picket passes through two apertures in the rail” (emphasis added). The pickets in Souza pass through only one aperture in each rail. The pickets 62 of amended claim 1 of the present invention extend through two walls, either two outer walls (upper and lower surface) or one outer and one inner wall (interior wall 61), in order to provide a stable assemble such that the picket is generally prevented from moving in either direction further through or out of the corresponding rail 60, 63. The stems 33 in Souza are deformed by hammering before each of the rails is assembled whereas the rails of amended claim 1 can be formed by a crimping tool which extends through a completely contained or formed rail. The fence panel of claim 1 can therefore be assembled in a different and more efficient manner than a panel according to Souza. Additionally, the pickets 62 of claim 1 can have two spaced points of contact with the corresponding rail 60, 63 rather than only one as disclosed in Souza to form a more stable connection. Accordingly, Souza fails to disclose each and every element of claim 1 of the present application.

Claims 3 and 6 depend from claim 1 and are patentable over Souza for at least the same reason discussed above and further due to the additional features that they recite. Separate and

individual consideration of the dependent claims is respectfully requested. Based upon the above, Applicant respectfully requests that the Examiner reconsider and withdraw any rejection of claims 1, 3 and 6, as amended, based upon anticipation by Souza.

Claims 7 and 9-13

Previously presented claim 7 of the present application is directed to a panel for a fence and recites:

at least one hollow rail and a plurality of pickets supported by the rail, wherein the rail has an external wall with entry apertures for the pickets, and an internal wall for holding end portions of the pickets, and wherein each picket enters the rail through a respective entry aperture and has an end portion which is held by a corresponding holding aperture in the internal wall.

[underline emphasis added]

Applicant respectfully submits that Souza does not teach, suggest or disclose each and every element of previously presented claim 7. Specifically, Souza does not disclose an “internal wall for holding end portions of the pickets” wherein “each picket enters the rail through a respective entry aperture and has an end portion which is held by a corresponding holding aperture in the internal wall”. The Applicant respectfully submits that Souza does not include an internal wall or any internal structure that may be considered an internal wall. The wall 20, asserted by the Examiner to be the internal wall, in Souza is an external wall that includes an entry aperture. The wall 20 cannot be considered both the external wall and the internal wall as recited in claim 7. The internal wall 61 in claim 7 of the present invention provides a second contact point for stabilization and support while keeping the picket end entirely contained within the rail 60. Souza does not have any internal structure let alone an internal wall with an aperture for holding an end portion of the picket. Accordingly, Souza fails to disclose each and every element of claim 7 of the present application.

Claims 9-13 depend from claim 7 and are patentable over Souza for at least the same reason discussed above and further due to the additional features that they recite. Separate and individual consideration of the dependent claims is respectfully requested. Based upon the

above, Applicant respectfully requests that the Examiner reconsider and withdraw any rejection of claims 7 and 9-13 based upon anticipation by Souza.

New claims 24-29

New claims 24 and 25 depend from claim 1 and are patentable over Souza for at least the same reason discussed above regarding amended claim 1 and further due to the additional features that new claim 24 and 25 recite.

New claim 26 of the present application is directed to a panel for a fence and recites:

at least one hollow rail and a plurality of pickets supported by the rail, wherein the pickets enter the rail by passage through respective entry apertures in the rail, and a portion of each picket located inside of the rail is transversely flattened while within the rail to thereby prevent further passage of the pickets through their respective entry apertures.

[underline emphasis added]

Souza does not disclose a picket that is transversely flattened within the rail. The stems 33 in Souza are flattened or upset in the vertical or axial direction as shown in Fig. 14 before assembling the rails 16, 23. Flattening the pickets 62 in the transverse direction while positioned within the rails 60, 63 allows for more efficient assemble and allows for a longer portion of each picket to extend through the rails 60, 63 to secure to an additional aperture in an internal wall 61 or the opposing side of the rail 63. Accordingly, claim 26 is patentable over Souza.

New claims 27-29 depend from new claim 26 and are also patentable over Souza for at least the same reason discussed above for claim 26 and further due to the additional features that new claims 27-29 recite.

CONCLUSION

In view of the foregoing Amendment and remarks, Applicant respectfully submits that the present application, including claims 1, 3, 6-7, 9-13, as amended and new claims 24-29, is in condition for allowance and such action is respectfully requested.

Respectfully submitted,

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